

REMARKS/ARGUMENTS

Description of amendments

Applicant has substantially rewritten claim 6 in independent form, amended claims 7 and 22, and cancelled claims 4 and 5. Claims 6-8 and 22-29 are under examination, and claims 9-21 and 30-46 are withdrawn.

Rejection under 35 U.S.C. §102

Claims 4-7, 22, and 27-29 were rejected under 35 U.S.C. §102(e) as being anticipated by Brandau (U.S. Patent 6,709,379). The rejection of claims 4 and 5 has been rendered moot by their cancellation. For the following reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 6, 7, 22, and 27-29.

Each of independent claims 6 and 27 recites a surface having an *attachment region*, a *ceramic component* having *first and second porous regions*, and an *oxide layer* between the surface of the attachment region and the second porous region, wherein the second porous region is less porous than the first porous region.

The Examiner contended that Brandau discloses “a metal substrate layer 2, an oxide layer 6 between the metal substrate and an outer ceramic layer 14.” Apparently, the Examiner believed that the alleged “metal substrate layer 2” corresponds to the *surface* of the claimed invention, the alleged “oxide layer 6” corresponds to the *oxide layer* of the claimed invention, and the alleged “outer ceramic layer 14” corresponds to the *ceramic component* of the claimed invention.

Applicant respectfully disagrees with the Examiner’s reading of Brandau. First, Applicant disagrees with the Examiner’s contention that Brandau discloses “an outer ceramic layer 14.” In Brandau, reference numeral 14 designates a *cover layer*, and there is no disclosure that the cover layer (14) is or can be ceramic. If this rejection is maintained, Applicant respectfully invites the Examiner to show where in Brandau is the disclosure that the cover layer (14) is or can be ceramic. Applicant also disagrees with the Examiner’s contention that column 8, lines 18-23, of Brandau “discloses different oxide layers to cover the stent.” Column 8, lines 18-23, of Brandau discloses only that “the production of the covering layer 6” can be made by “an oxidization of an appropriate surface layer of the support 2.” There is simply no disclosure

of “different oxide layers.” Applicant further disagrees with the Examiner’s contention that column 3, lines 26-28, of Brandau discloses that “the implant can have an oxide layer and a ceramic layer.” Column 3, lines 26-28, of Brandau discloses that “the covering layer at least essentially consists of a metal oxide and/or ceramic material.” This does not mean that the covering layer consists of “an oxide layer and a ceramic layer.”

Additionally, the Examiner contended that “the oxide layer [of Brandau] is a less porous region at the attachment to the surface of the metal implant body...” (emphasis added). Claims 6 and 27, however, do not specify that the oxide layer has a less porous region. Instead, claims 6 and 27 recite that the ceramic component has a first porous region and a second less porous region.

According to Applicant’s reading, Brandau discloses a metal support (2), a cover layer (14), and a covering layer (6) disposed between the metal support (2) and the cover payer (14). The covering layer (6) comprises a plurality of openings (9) (column 7, lines 45-46). The covering layer (6) can be made in two ways. First, the covering layer (6) can be deposited on the surface of the metal support (2) by precipitation, electrolytic formation, or plasma deposition (column 7, lines 38-41, and column 8, lines 4-17). Second, “the production of the covering layer 6” can be made by “an oxidization of an appropriate surface layer of the support 2” (column 7, lines 41-44, and column 8, lines 18-21). In other words, the covering layer (6) can be produced by “an oxidization of an appropriate surface layer of the support 2.” Brandau, however, does not disclose that there is an oxide layer between the covering layer (6) and the metal support (2).

Therefore, Brandau does not teach the oxide layer of claims 6 and 27 that is disposed between a surface and the less porous region of a ceramic component. Accordingly, Brandau cannot anticipate independent claims 6 and 27 and the claims depending therefrom.

Rejection under 35 U.S.C. §103(a)

Claims 8 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brandau in view of Alt (U.S. Patent 6,099,561). This rejection is now moot, because claims 8 and 23 have been amended to depend from claim 6 and because the rejection of claim 6, as discussed above, is improper.

In light of the foregoing remarks, this application is considered to be in condition for allowance, and early passage of this case to issue is respectfully requested. If necessary to effect

Application No. 10/623,908
Response dated December 4, 2006
Reply to Office action of September 27, 2006

a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 07-1850.

Date: December 4, 2006

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